TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Email : delhi@cestat.gov.in

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
CUSTOMS APPEAL BRANCH

Appeal No. C/236 /2007 - CU[DB] Date **17/01/2011**

Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
M/S BHAWANI TRADERS.

111 VIKAS TOWER COMMUNITY CENTRE,
RANI BAGH, PITAMPURA DELHI-110034

M/S BHAWANI TRADERS. Appellant

Vs

C.C.E. DELHI IV Respondent

I am directed to transmit herewith a certified copy of **Final order C/27/ 2011 CU[DB]** dated 13.01.2011 passed by the Tribunal under **Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax**

Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent
C.C.E. DELHI IV
NEW CGO COMPLEX, NH-IV,
FARIDABAD, HARYANA 121001.
2. Adv. / Consult
MR.L.P ASTHANA
R-163, SECOND FLOOR, GREATER
KAILASH-1, NEW DELHI - 110 048.
3. C.D.R
4. Bar association, CESTAT, New Delhi
5. Director Publications, Customs, Excise. I.P. Estate, New
6. M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
7. Company Law Institute of India Pvt Ltd.,No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
8. M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017
9. Taxmann Allied Service Pvt Ltd., 59/32, New Rohtak Road, New Delhi -
10. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
11. LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
12. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
13. Office Copy
14. Guard file

Assistant Registrar
(Customs Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. IV

DATE OF HEARING : 12/01/2011.
DATE OF DECISION : 12/01/2011.

Customs Appeal No. 236 of 2007

[Arising out of the Order-in-Appeal No. 14/Cus/Appl/DLH-IV/2007 dated 14/03/2007 passed by The Commissioner of Customs (Appeals), Delhi - I.]

For Approval and signature :

Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Shri M. Veeraiyan, Member (Technical)

1.	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	:	No
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	:	No
3.	Whether their Lordships wish to see the fair copy of the order?	:	Seen
4.	Whether order is to be circulated to the Department Authorities?	:	Yes

M/s Bhawani Traders — Appellants

Versus

CCE, Delhi I — Respondent

Appearance

Shri L.P. Asthana, Advocate – for the Appellants.

Shri B.L. Soni, Authorized Representative (DR) – for the Respondent.

CORAM : **Hon'ble Ms. Archana Wadhwa, Member (Judicial)**
Hon'ble Shri M. Veeraiyan, Member (Technical)

Final Order No. C/27/11 Dated : 13.1.11

Per. Archana Wadhwa :-

The impugned order before us stands passed by Commissioner (Appeals) by which he had rejected the appeal upholding the order of the lower authorities enhancing the value from U.S. $ 0.152 per piece to U.S. $ 0.430 per piece. The grievance of the appellant is that no reasoned order was passed by the original Adjudicating Authority. Commissioner (Appeals) also relied upon the price list of the manufacturer of the Ball Bearings and has enhanced the price by allowing 30% discount. However, the said price list, which stands relied upon by the Appellate Authority was of the year 2000, whereas the import has taken place in the year 2006. As such, it stands submitted by the learned advocate that reliance on a price list of 2000 for an import made in 2006 cannot be held to be contemporaneous and the order passed on that basis is neither justified nor warranted.

2. Learned DR appearing for the Revenue draws our attention to the order of Commissioner (Appeals) and submits that there is nothing in the said order to show that the price list mentioned and relied upon by appellant was of the year 2000. As such, the submission of the learned advocate cannot be appreciated at this stage.

3. In his rejoinder, learned advocate submits that the said price list though was not supplied to them but was shown to

them and they have made a categorical averment to that effect in their memo of appeal.

4. In view of the fact, as there is dispute about the factual position, which can only be resolved at the original level, we set aside the impugned order and remand the matter to the original Adjudicating Authority for passing of afresh orders. Needless to say that the material relied upon by the Revenue for enhancing the price would be supplied to the appellant, and an opportunity would be given to them to put-forward their defence. Further, the principles of natural justice would be observed and the appellant would cooperate with the Adjudicating Authority. The appeal stands disposed of in above terms.

(Dictated and pronounced in open court.)

(Archana Wadhwa)
Member (Judicial)

(M. Veeraiyan)
Member (Technical)

PK